

## **REMARKS**

Claims 1, 8-11 are pending in this application. With entry of this response, Applicants have canceled claims 2-7 and 12-26 and amended claim 1. Support for the claim amendments are found throughout the originally-filed specification and claims (e.g., Example 1 *etc*). No new matter has been introduced. Applicants thank the Examiner for providing an indication that the claims are free of the prior art. In view of the following remarks, Applicants respectfully request reconsideration of the amended claims.

The Examiner rejected the claims as allegedly not being enabled for cotton, for any plant tissues besides soybean and potato, and for strain K599. Applicants have amended the claims accordingly and respectfully request that the rejection be withdrawn.

The Examiner also rejected the claims as allegedly being obvious over Tulson in view of Simpson and Savka. Tulson describes the transformation of cucumber hypocotyls via infection with rhizogenes. Tulson does not teach the use of any soybean. To account for this deficiency, the Examiner sites Simpson and Savka, which report the susceptibility of certain soybean tissue to rhizogenes. But neither reference teaches or suggests the use of soybeans hypocotyls or stems.

To provide a prima facie case of obviousness, the Examiner must establish that there is some motivation to combine the cited references, and a reasonable expectation of success from the combination. The present rejection fails on both points. First, there is no motivation to combine the references. The teachings concerning cucumbers do not provide any motivation to use that knowledge in transforming soybean. The crops are completely different. Furthermore, there is no reasonable expectation of success in taking information from cucumber transformation and applying it to soybeans. At best, the Examiner has suggested it would be obvious to try such a combination. But that is not the standard for obvious. Accordingly, Applicants respectfully request that the rejection be withdrawn.

With respect to the priority of the provisional application, Applicants believe that the presently amended claims are fully supported by the originally filed provisional application. Thus, the priority should be properly established as of the filing date of the provisional application.

Applicants believe the claims are in condition for allowance and respectfully request reconsideration by the Examiner. Should any further information be needed to allow the claims, the Examiner is invited to contact the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy K. Ball', written over a horizontal line.

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